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Paper No. 17

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In re Application of
Scott R. Presnell et al.
Application No. 09/397,846
Filed: October 23, 2006
Attorney Docket No. 98-54

: **OFFICE OF PETITIONS**
:
: **DECISION ON PETITION**
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This is a decision on the petition, filed May 4, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action of June 16, 2003, which set a three (3) month shortened statutory period for reply. Thus, a reply was due on or before September 16, 2003, or on or before December 16, 2003, with a three (3) month extension of time. A Notice of Abandonment was mailed on March 23, 2004.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply in the form of the filing of a Continuation Application bearing the Application Number 10/738,929 was received by the office on December 16, 2003, along with a request for three (3) month extension of time for filing a response in the instant application. The Office inadvertently placed the request for extension time directed to the instant application in the file record of the continuing application 10/738,929. A review of the application file record in the Application 10/738,929 confirms the receipt of this reply with authorization to charge the fees for a three (3) month extension of time, on December 13, 2003. Thus, the application is not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment **WITHDRAWN**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

Petitioner should note that the Notice of Abandonment is being withdrawn solely for the purpose of providing continuity to the application 10/738,929. As continuity has been established by this decision, the instant application is again abandoned in favor of the application 10/738,929.



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